

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

ASCION, LLC,

Plaintiff - Appellant,

v.

RUOEY LUNG ENTERPRISE CORP.,

Defendant – Appellee,

JOHN D. VAN LOBEN SELS; WHGC,
P.L.C.,

Nonparties – Appellees.

2015-1560

MOTION TO DISMISS APPEAL

Pursuant to Fed. R. App. P. 42(b), Appellant, Ascion, LLC (“Ascion”) respectfully requests that the Court dismiss Appeal No. 2015-1560. An opening brief has not been filed in this appeal. Ascion requested that Nonparties-Appellees, John Van D. Loben Sels (“JVLS”) and WHGC, P.L.C. (“WHGC”), stipulate to this dismissal and agree that Ascion, JVLS and WHGC would each bear their own costs, but JVLS and WHGC’s counsel was not able to obtain consent before Ascion’s filing of this motion. Declaration of Eric J. Rutt, ¶¶ 2-3. As this appeal does not affect the rights of Defendant-Appellee, RuoeY Lung Enterprise Corp., it has not entered an appearance in this appeal.

For the above reasons, Ascion respectfully requests that the Court dismiss Appeal No. 2015-1560 and order that Ascion, JVLS and WHGC each bear their own costs.

Dated: June 15, 2015

/s/ Michael A. Albert
Michael A. Albert
WOLF GREENFIELD & SACKS P.C.
600 Atlantic Ave.
Boston, MA 02210
(617) 646-8000
Attorney for Appellant

Form 9

FORM 9. Certificate of Interest**UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**Ascion, LLC v. Ruoey Lung Enterprise Corp., et alNo. 15-1560**CERTIFICATE OF INTEREST**

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

Appellant certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:

Ascion, LLC

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

None

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

None4. ☒ The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:Wolf, Greenfield & Sacks, P.C.: Allen S. Rugg; Eric G. J. Kaviar; Michael A. Albert; John L. Strand; Eric J. Rutt Mirick, O'Connell, DeMallie & Lougee: Robert B. GibbonsJune 15, 2015

Date

/s/ Michael A. Albert

Signature of counsel

Michael A. Albert

Printed name of counsel

Please Note: All questions must be answered

cc: Counsel of Record

PROOF OF SERVICE

I hereby certify that on June 15, 2015, a true and correct copy of the foregoing document was electronically filed with the Clerk of this Court using the CM/ECF system, and a copy was also sent electronically via the Court's CM/ECF system to counsel for Appellees.

In addition, a copy of this electronic filing was sent via electronic mail to the following counsel of record for Ruoeey Lung Enterprise Corp. in the district court below:

Scott McConchie
smcconchie@sherin.com
Thomas P. Gorman
tpgorman@sherin.com
Sherin and Lodgen LLP
101 Federal Street
Boston, MA 02110

Date: June 15, 2015

/s/ Michael A. Albert
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Attorney for Appellant

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**DECLARATION OF ERIC J. RUTT IN SUPPORT OF
ASCION’S MOTION TO DISMISS APPEAL**

I, Eric J. Rutt, declare:

1. I am an attorney at Wolf, Greenfield & Sacks, P.C. and am one of the counsel of record for Appellant Ascion, LLC in this appeal. I have personal knowledge of the facts stated herein and, if called as a witness, could testify competently thereto.

2. On June 15, 2015, I sent an email to counsel for Nonparties-Appellees, John Van D. Loben Sels (“JVLS”) and WHGC, P.L.C. (“WHGC”), requesting that Nonparties-Appellees stipulate to dismiss the appeal and that Ascion, JVLS and WHGC would each bear their own costs for this appeal.

3. Counsel for Nonparties-Appellees informed me that he was not able to

obtain consent today.

I declare under penalty of perjury that the foregoing is true and correct.

Executed June 15, 2015 in Boston, Massachusetts.

A handwritten signature in cursive script, appearing to read "Eric J. Rutt", is written over a horizontal line.

Eric J. Rutt

WOLF, GREENFIELD & SACKS, P.C.

600 Atlantic Avenue

Boston, MA 02210

(617) 646-8000

Attorney for Appellant